

REMARKS

The claims have been amended in order to more completely describe and distinctly claim the invention and to overcome the various grounds of rejection set forth in the Official Letter. Inasmuch as no new matter is embodied by the proposed amendments, entry thereof is respectfully requested.

The Examiner's objections to the drawings are believed to be overcome by the amended drawing submitted herewith and the amendment made to the specification. Accordingly, withdrawal of this ground of objection is respectfully requested. Formal drawings will be submitted upon the indication of allowable subject matter. The Examiner's objection to the failure of the drawings to depict the article of manufacture encompassed by claims 28 and 18-19 is respectfully traversed. The drawings set forth the means for conveying the particulate solid. Applicant is aware of no requirement that a drawing set forth written text material, whether or not the text material forms a part of the claims. Finally, the Examiner's attention is directed to U.S. patents 4,988,710 and 5,011,853 which contain claims similar to those presented herein and which define the elements of the claimed "article of manufacture" essentially in the same manner with no drawings thereof. Attention is also directed to US patent 6,190,699 which contains claims drawn to both the element contained in and the article of manufacture itself.

Finally, the Examiner's attention is directed to the decision in Ex parte SERGAZY et al; Appeal No. 2002-0518; Application No. 08/934,471, wherein the Board of Appeals and Patent Interferences addressed the very issue presented herein. The appeal involved claims 1 and 8 which read as follows:

“---1. A pharmaceutical composition in unit dosage form suitable for the treatment of a human cancer, consisting essentially of about 40 mg to about

480 mg of dimethylaminoarglabin or a pharmaceutically acceptable salt thereof.

8. An article of manufacture comprising packaging material and a pharmaceutical agent contained within said packaging material, wherein said pharmaceutical agent is therapeutically effective for suppressing tumor growth in a human, and wherein said packaging material comprises a label that indicates that said pharmaceutical agent can be used for suppressing tumor growth in a human, and wherein said pharmaceutical agent comprises dimethylaminoarglabin or a pharmaceutically acceptable salt thereof---".

The Board, in addressing the Examiner's rejection of claim 8 as an obvious variant of claim 1 stated:

"---the examiner simply concludes (Answer, page 4), "[t]he article of manufacture, claim 8, is nothing more than a pharmaceutical composition with packaging materials." While this is may be true, the examiner's burden of providing an evidentiary basis for his rejection is not relieved. On this record, the examiner makes no attempt to provide the evidence necessary to establish a prima facie case of obviousness---".

Accordingly, withdrawal of this ground of objection is respectfully requested.

The objection to claim 17 under 37 CFR 1.75(c) is believed to be obviated by the above amendment whereby the dependency on claim 1 has been deleted. Accordingly, withdrawal of this ground of rejection is respectfully requested.

It is noted that claim 25 has not been rejected. May applicant assume that claim 25 would be allowable if written in independent form?

The rejection of claims 1-24 under 35 USC 102 or 35 USC 103 over Wardell is respectfully traversed. The reference does not disclose either (1) a disposable means for conveying a particulate solid, (2) a means for conveying a particulate solid wherein the flexible elements are constructed of an electrically conductive material and the means are grounded to avoid electrostatic build-up or (3) a means whereby the dispersibility and flowability of the particulate material transported therein may be determined. Wardell discloses neither of these elements and the Examiner has failed to address the issue of their

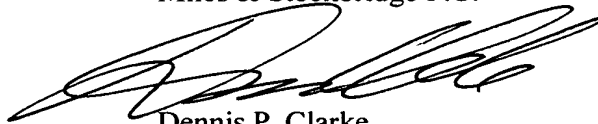
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impact on the patentability of the claims. Accordingly, withdrawal of this ground of rejection is respectfully requested.

Applicants have earnestly endeavored to place this application in condition for allowance and an early action to that end is respectfully requested.

Respectfully submitted,

Miles & Stockbridge P.C.

A handwritten signature in black ink, appearing to read 'Dennis P. Clarke', is written over the printed name.

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